

PRIVATE CHAPTER NO. 91

HOUSE BILL NO. 4253

By Representative Baird

Substituted for: Senate Bill No. 4258

By Senator Kilby

AN ACT to amend Chapter 40 of the Private Acts of 1981; as amended by Chapter 167 of the Private Acts of 2002 and Chapter 42 of the Private Acts of 2005; and any other acts amendatory thereto, relative to the city of Jellico.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 40 of the Private Acts of 1981; as amended by Chapter 167 of the Private Acts of 2002, Chapter 42 of the Private Acts of 2005; and any other acts amendatory thereto, are amended by deleting such chapters in their entirety and by substituting instead the following to be the charter of the City of Jellico:

CHARTER OF THE CITY OF JELICO, TENNESSEE

ARTICLE I

CHARTER, DEFINITIONS, CITY LIMITS, CORPORATE POWERS

SECTION 1.01. Act constitutes city charter. This act constitutes the whole charter of the City of Jellico, Tennessee, repealing and replacing the charter provided by Chapter 167 of the Acts of 2002, and subsequent acts amending such charter. The City of Jellico in the County of Campbell, and the inhabitants thereof shall continue, and are hereby constituted and declared a body politic and corporate by the name and style of Jellico, Tennessee, and by that name have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 1.02. Definitions. As used in this charter the following words and terms have the following meanings:

(a) "City" means the City of Jellico, Tennessee;

(b) "Board" and "board of mayor and aldermen" means the legislative body of the city, which is composed of the mayor, within the limitations and except for the purposes prescribed in this charter, and six (6) aldermen elected as provided in this charter,

and any incumbent mayor and aldermen until the expiration of their current terms of office;

(c) "Nonpartisan" means without any designation of candidates as members or candidates of any state or national political party or organization; and

(d) "At large" means the entire city, as distinguished from representation by wards or other districts.

The masculine includes the feminine, and the singular includes the plural and vice versa, except when the contrary intention is manifest.

SECTION 1.03. City limits. The boundaries of the city are those presently constituted, including all annexations made pursuant to general law.

SECTION 1.04. Corporate powers. The city has power:

(a) To assess property for taxation, and to levy and provide for the collection of taxes on all property subject to taxation;

(b) To levy and collect privilege taxes on businesses and privileges which are taxable under the general laws of the state, and to levy and collect any other kind of tax not prohibited to municipalities by the Constitution or general law. Collection fees therefore may be provided for by ordinance;

(c) To appropriate and borrow money, and to authorize the expenditure of money for any municipal purpose;

(d) To acquire land, including improvements thereon, easements, or limited property rights thereto, by purchase, gift, or condemnation, for public use, for present or future use by the city, to reserve industrial sites, to provide open spaces, to encourage proper development of the community, or for the general welfare of the community. Such acquisitions may be within or outside the city;

(e) To grant franchises or make contracts for public utilities and public service, not to exceed a period of twenty-five years. Such franchises and contracts may provide for rates, fares, charges, regulations, standards, and conditions of service, subject to regulation by the Tennessee Regulatory Authority or other state or federal agency having jurisdiction in such matters. Provided, however, this paragraph does not affect existing contracts or franchises;

(f) To provide for the acquisition, construction, building, operation, and maintenance of: public ways; parks; public grounds; cemeteries; markets and market houses; public

buildings; libraries; sewers; drains; sewage treatment plants; airports; hospitals; water works; docks; gas works; marinas; city forests; tree and shrub nurseries; heliports; terminals; parking garages and lots; industrial sites and buildings; charitable, educational, recreational, sporting, cultural, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; and to regulate the use thereof. Such property may be either acquired or taken pursuant to the general law for such purposes;

(g) To require property owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands, including removal of snow, debris or other material;

(h) To make regulations to secure the general health of the inhabitants and to prevent, abate, and remove nuisances. The term "nuisances" includes, but is not limited to, old or dilapidated buildings which are so out of repair as to be unsafe, unsanitary or unsightly. The city may require the cutting of grass. The city has the power to abate and remove nuisances at the expense of the owner or owners, and the expense, including fines, penalties, and interest, are secured by lien upon the property by which the expenditure is made;

(i) To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(j) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such service which, if unpaid, are collectible in by all legal means available. The board, by ordinance, may prescribe penalties and interest for delinquency;

(k) To define, regulate, and prohibit any act, practice, conduct, or use of property, that would be detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of inhabitants of the city;

(l) To regulate, license and prohibit the keeping or running at large of animals and fowls, and to provide for the impoundment of same in violation of any ordinance or lawful order, and to provide for their disposition by sale, gift, or humane killing when not redeemed as provided by ordinance;

(m) To regulate and license vehicles operated for public transportation in the city; to limit the number of such vehicles; to license the operators thereof; to require public liability insurance on such vehicles; and to regulate and assess fees for use of parking spaces in public ways for the use of such vehicles;

(n) To provide that the violation of any ordinance, rule, regulation, or order is punishable by fine, penalty, or forfeiture not to exceed state authorized limits, and costs;

(o) To plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and to institute programs to effectuate such plans;

(p) To dispatch fire equipment within and without the corporate limits, provided that the board prescribes by ordinance rules for dispatching and operation of fire equipment outside the corporate limits, and to establish, maintain and enforce fire prevention regulations therein.

(q) To enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction; and to provide by ordinance for court costs;

(r) To exercise and have all other powers, functions, rights, privileges, and immunities granted by general law or that are necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this charter is held to be exclusive of others nor restrictive of general words and phrases granting powers, but is held to be in addition to such powers unless expressly prohibited to cities by the Constitution or general laws of the state; and

ARTICLE II BOARD OF MAYOR AND ALDERMEN, ELECTIONS

SECTION 2.01. Election of mayor and aldermen

(a) The board of mayor and aldermen. The power of the government of the City of Jellico is vested in a board of mayor and aldermen consisting of a mayor and six (6) aldermen who shall be elected at large.

(b) Qualifications. The mayor and aldermen shall be residents of the United States, of the State of Tennessee, and of the City of Jellico. No person is eligible to the office of mayor or alderman who has not been a resident of the City of Jellico for one (1) year next preceding the election, and who is not at least twenty-one (21) years of age. Continuing residency in the city is a requirement for holding office. Any mayor or aldermen who move their residency from the city automatically vacates the office, and

the vacancy shall be filled as prescribed by Section 2.05 of this charter.

(c) Elections. Elections are held in conjunction with the state general elections on the first Tuesday after the first Monday in November. Terms of office for the mayor and the six aldermen are for four (4) years with their terms beginning at the first regularly scheduled board meeting after the election results are certified and ending four (4) years thereafter, or when their successors are elected and qualified. The candidate for mayor with the most votes is elected. The six (6) candidates for aldermen receiving the highest number of votes are elected to office. In the event of a tie for mayor or alderman, the board will conduct a coin toss to determine the victor.

(d) Voter qualifications. Any person qualified under the general election laws of the state who is domiciled in the city, or is a bona fide owner of real estate within the city limits, is qualified as an elector in city elections. Each elector is entitled to vote for one candidate for mayor and six (6) candidates for aldermen.

SECTION 2.02. City board--composition; salaries; meetings; quorum.

(a) The mayor and six (6) aldermen elected compose the board, in which is vested all corporate, legislative and other powers of the city.

However, the mayor is not considered a member of the board for the purpose of voting on measures coming before the board, except as otherwise expressly provided in this charter.

(b) The salaries of the mayor and alderman are set by ordinance; provided, however, if their salaries are raised, they are not effective until after the next election of city officials. The mayor, aldermen, and employees or agents of the city are reimbursed for actual and necessary expenses incurred in the conduct of their official duties.

(c) The board meets regularly at least once every month at the times and places prescribed by ordinance. The board may meet in special session on written notice of the mayor or of any three (3) aldermen served on the other members of the board personally at least seventy-two (72) hours in advance of the meeting, except when there is an emergency that threatens the health, safety and welfare of the city. The board has the authority in public assembled session, with a quorum present, to exercise all expressly granted or implied powers;

(d) Four (4) aldermen constitute a quorum; and

(e) The board may, by ordinance, adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The board may subpoena and examine witnesses and order the production of books and papers.

SECTION 2.03. Mayor as presiding officer; veto power etc. The mayor presides at the meetings of the board, and the mayor also has a voice and the right to introduce ordinances, resolutions and motions without stepping down as presiding officer. However, the mayor can vote only in case of a tie. The mayor is recognized as the ceremonial head of the city, is the officer to accept process against the city, and performs other duties imposed upon the mayor by ordinance, not inconsistent with this charter.

The mayor has the power to veto ordinances passed by the board. That power must be exercised by the next regular meeting of the board following the passage of the ordinance, except in the case of an emergency ordinance as detailed in Section 2.07 the power must be exercised at the next special called meeting following the passage of the ordinance. The vote must be accompanied by a written message from the mayor and delivered to the board explaining the reasons for the veto. The veto is not effective unless it is delivered to the board no later than immediately preceding the call to order of the above prescribed meeting. The mayor's veto can be overridden by the affirmative vote of four (4) aldermen.

SECTION 2.04. Vice-mayor--election, duties. The candidate for alderman who receives the highest number of votes in each election becomes the vice-mayor. However, that person has the right to reject the office of vice-mayor, in which case the board offers the position to the next highest vote getter who also has the right to reject the office. This process continues until an alderman accepts the position. The vice-mayor performs the duties of the mayor during the mayor's absence or inability to act in the office of mayor, and fills out any unexpired term in the office of mayor. If the vice mayor becomes the mayor, the board selects an alderman to serve the unexpired term of the vice-mayor. The vice-mayor forfeits the right to vote while the vice-mayor is performing the function of presiding officer, and is not counted for the purpose of determining the presence of a quorum.

SECTION 2.05. Vacancy in office of mayor or alderman; effect of malfeasance, etc.

(a) A vacancy exists if the mayor or an alderman resigns, dies, moves his or her residence from the city, is recalled, or is removed from office in accordance with the procedures established in Tennessee Code Annotated, Title 8, Chapter 47, regarding ouster. The board shall by resolution, except in the case of a recall, declare a vacancy to exist for any of these reasons, and such finding shall be final.

(b) The board shall appoint a qualified person to fill a vacancy in the office of alderman for the remainder of the unexpired term. A vacancy in the office of mayor shall be filled as provided in Section 2.04.

SECTION 2.06. Recall of mayor and/or alderman. Any person holding the office of mayor or alderman of the city, whether by election, succession, or appointment to fill a vacancy, is subject to removal from office at a recall election in the manner provided in the Tennessee Code Annotated § 2-5-151, with the exception that petitions shall be signed by at least forty percent (40%) of those registered to vote in the municipality.

SECTION 2.07. City legislation--when ordinances necessary; required wording; readings required; emergency ordinances.

(a) Any action of the board having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this charter or the general laws of the state, is done only by ordinance. Other actions of the board may be accomplished by resolutions or motions.

Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of the board and the city attorney in advance of the meeting at which introduced. The board may determine by ordinance or resolution the definition of "in advance." The enacting clause of ordinances is "Be it ordained by the board of mayor and aldermen of the City of Jellico". No action of the board of mayor and aldermen is valid or binding unless approved by the affirmative vote of a majority of the board present at the meeting at which the vote was taken. Any ordinance which repeals or amends existing ordinances shall cite the sections or subsections repealed or amended. Every ordinance, except an emergency ordinance, must be approved on two (2) readings not less than one (1) week apart, and becomes effective after final approval unless its terms provide a later effective date. Only the caption of ordinances and resolutions are required to be read at each reading. Written copies of the ordinances shall be available for public review. Each resolution becomes effective when adopted unless its terms provide otherwise.

To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two (2) readings on separate days and become effective immediately, by the affirmative votes of three (3) members of the board, if the ordinance contains a full statement of the facts creating the emergency. The mayor has the authority to veto the emergency ordinance under the same guidelines as Section 2.03.

(b) The original copies of ordinances, resolutions, contracts and other documents are filed and preserved by the city recorder.

ARTICLE III ORGANIZATION AND PERSONNEL

SECTION 3.01. Organization of city government. The board by ordinance may establish, abolish, merge or consolidate offices, positions of employment, departments, and agencies of the city; may provide that the same person fill any number of offices and positions of employment; and may transfer or change the function and duties of offices, positions of employment, department, and agencies of the city and may prescribe the functions of all departments, offices and agencies not inconsistent with this charter. Provided, however, that the number of members of the board shall not be changed and the office of the mayor shall not be abolished. All departments, offices, and agencies are administered by either the mayor or by a city administrator if the board appoints one in accordance with Section 3.02. Appointed department heads have the authority to recommend hiring, firing, promotion and demotions to the board which has the authority to act on the recommendations. The mayor (or city administrator if one is appointed) has the authority to issue a temporary employee suspension until the next regular or special called board meeting.

SECTION 3.02. City administrator - appointment and duties. The board may appoint a city administrator, who is bonded in an amount set by the board, to serve at the will of the board. The city administrator is appointed on the basis of executive and administrative qualifications, which include, but is not limited to, a college degree, preferably with an emphasis in public administration or management and/or at least five (5) years experience in a responsible, professional local government or related position. The city administrator need not be a resident of the city at the time of appointment but may reside outside the city while in office only with the approval of the board. The compensation of the city administrator is fixed by the board.

If the position is created and filled by the board, the city administrator is the chief administrative officer of the city, responsible to the board for the administration of all city affairs placed in the city administrator's charge by or under this charter. The city administrator:

(a) Recommends to the board appointments and, when necessary for the good of the city, recommends to the board suspension or removal any city administrative officer or employee except as otherwise provided by this charter or by personnel rules adopted by the board. The city administrator may authorize any administrative officer subject to the direction and supervision of the city administrator to exercise these powers with respect to subordinates in that officer's department, office or agency;

(b) Directs and supervises the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;

(c) Attends all meetings of the board of mayor and aldermen. The city administrator has the right to take part in discussion but may not vote;

(d) Sees that all laws, provisions of this charter and acts of the board, subject to enforcement by the city administrator or by officers subject to the city administrator's direction and supervision, are faithfully executed;

(e) Prepares and submits the annual budget and capital program to the board;

(f) Submits to the board of mayor and aldermen and makes available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

(g) Makes such other reports as the board may require concerning the operations of city departments, offices and agencies subject to the city administrator's direction and supervision;

(h) Keeps the board fully advised as to the financial condition and future needs of the city;

(i) Makes such recommendations to the board concerning the affairs of the city as may be desirable; and

(j) Performs such other duties as are specified in this charter or may be required by the board of mayor and aldermen.

The board or its members shall deal with city administrative officers and employees who are subject to the direction and supervision of the city administrator solely through the city administrator, except as provided above, and neither the board nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 3.03. City recorder--appointment and duties. The board appoints the city recorder. Following his/her initial appointment, he/she is subject to removal by the board. The recorder has the following powers and duties, or such other powers and duties as may be provided by ordinance not inconsistent with this charter:

(a) To keep and preserve the city's seal and all official records not required by law or ordinance to be filed elsewhere;

(b) To attend all meetings of the board and to maintain a journal showing the proceedings of all such meetings, the mayor and aldermen present and absent, each motion considered, the title of each resolution and ordinance considered, and the vote of each alderman on each question. This journal is open to the public during regular office hours of the city subject to reasonable restrictions exercised by the city recorder;

(c) To have custody of and preserve in the office designated by the board for that purpose, the general and fiscal records of the city and keep an accurate and modern index to them;

(d) To provide and certify copies of city records, and to provide to the public copies of ordinances and resolutions and other public records. Fees for such services may be established by ordinance, to be deposited into the city treasury;

(e) To serve as head of the department of finance and taxation.

(f) To exercise general supervision, under the direction of the mayor (or city administrator if one is appointed), over the fiscal affairs of the city and over all the city's property, assets, and claims, and do so in accordance with modern and accepted accounting practices and procedures, subject to such rules and regulations as are prescribed by the board consistent with such practices and procedures;

(g) To issue checks, provided that such checks are countersigned by the mayor (or city administrator if one is appointed). The city recorder and the mayor (or city administrator if one is appointed), may delegate in writing their authority to sign checks to other municipal officers or employees when not available;

(h) To immediately notify the board of any delinquent taxes, fees, license renewals, or any other levy that may come to the city recorder's attention; and

(i) To perform other duties prescribed by the mayor (or city administrator if one is appointed) that are not imposed upon any other officer under this charter.

SECTION 3.04. City attorney--appointment and duties. The mayor, at the first meeting after each election, appoints, and the board confirms, a city attorney, and such assistant city attorneys as may be authorized by ordinance. The city attorney, or an assistant city attorney designated by the board, may be responsible for representing and defending the city in all litigation in which the city is a party; is responsible for attending meetings of the board as required by the board; advising the

board and other officers and employees of the city concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing such other duties as may be prescribed by the board.

SECTION 3.05. City court. There is established in the City of Jellico a municipal court upon which is conferred the jurisdiction to hear municipal ordinance violations cases.

(a) Qualifications. The city judge is appointed, and is subject to removal at will, by the board of mayor and aldermen. The city judge shall be a resident of the state of Tennessee. Preference is given to attorneys licensed to practice law in the courts of Tennessee. Preference shall be given first to attorneys who reside in Campbell County, then to attorneys who reside outside Campbell County.

(b) Vacancies. A vacancy in the office of the city judge is filled by the board of mayor and aldermen. In the temporary absence of the city judge, or in the case of the city judge's temporary inability to preside over the city court for any reason, the board of mayor and alderman appoints a qualified person to serve until the judge's return to the bench.

(c) Jurisdiction and powers. The city judge has jurisdiction to try persons charged with violations of city ordinances, and to impose both punitive and remedial fines and penalties on such persons who are convicted of the violations of city ordinances. The city judge has the power to levy fines, penalties, and forfeitures to the extent provided by state law for municipal ordinance violations, to administer all necessary process, to administer oaths, to maintain order in the court, and to punish for contempt of court to the extent prescribed by state law for municipal courts. The city judge also has the power to impose costs as prescribed by the board of mayor and aldermen under state law, and to levy costs in any other matters over which the city court might have jurisdiction as prescribed by state law.

(d) Separation of powers. The city judge is the exclusive judge of the law and facts in every case before the city judge and no official or employee of the city shall attempt to influence the city judge's decision except through pertinent facts presented in court.

(e) Records; docket; city clerk. The city recorder has the duty of maintaining all records of the city court in accordance with applicable laws. With the board's approval, the mayor may employ a person, or designate an existing employee to assist the city recorder in this function. The board requires the proper maintenance of the docket of the city court and other records of

the court. Subject to general law and the authority of the city judge, the board fixes the regular time for holding court.

SECTION 3.06. Officers and employees--salaries. Only the offices and positions of employment provided for in the annual budget, or as specifically approved by the board, are to be filled. Salaries for all positions are established in conjunction with the annual budget. In determining salaries, due consideration is given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and availability of persons having the qualifications desired.

SECTION 3.07. Employees-appointment, promotion and term, etc. The board may adopt personnel rules and regulations governing the appointment, promotion, term and other employment conditions of the employees of the city. However, all employees are employees at will, including the chief of police and fire chief.

SECTION 3.08. Oath of office. Before a person takes any office in the city government, such person shall subscribe to the following oath or affirmation, administered by a magistrate judge, the mayor or the city recorder or by any other person authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the state of Tennessee, that I will in all respects, observe the provisions of the charter and ordinances of the City of Jellico, and that I will faithfully discharge the duties of the office of _____."

SECTION 3.09. Official bonds. The mayor, recorder, city administrator, and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees designated by the board, shall give a fidelity bond or faithful performance bond, as determined by the board, with some surety company authorized to do business in the state of Tennessee as surety, in such amounts as is prescribed by the board. All such bonds and sureties thereto are subject to approval by the board. The cost of such bonds is paid by the city. Such bonds are blanket bonds covering offices and positions to be bonded, and individual bonds may be secured only when blanket bonds are not obtainable.

SECTION 3.10. Political activity prohibited. Employees of the city may individually exercise their right to vote and express their political views as citizens. However, employees may not engage in any political activity, except voting, while at work in a city vehicle or in uniform. Employees may not run for election to the board.

ARTICLE IV FISCAL ADMINISTRATION

SECTION 4.01. Fiscal year. The fiscal year of the city government begins on the 1st day of July and ends on the 30th day of June of the succeeding year, unless otherwise provided by ordinance.

SECTION 4.02. Submission of the annual budget. Not later than forty-five (45) days prior to the beginning of each fiscal year, the mayor (or city administrator if one is appointed) shall submit to the board a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following:

- (a) Revenue and expenditures during the preceding year;
- (b) Estimated revenue and expenditures for the current fiscal year;
- (c) Estimated revenue and recommended expenditures for the next fiscal year, not to exceed the amount of estimated revenue;
- (d) A comparative statement of the cash surplus (or deficit) at the end of the current fiscal year; and
- (e) Any other information and data, such as work programs and unit costs, in justification of recommended expenditures that may be requested by the board. The budget shall be accompanied by a message containing a statement of the general fiscal policies of the city, the important features of the budget, explanation of major changes for the next fiscal year as compared with the current fiscal year, a general summary of the budget, and such other comments and information as may be deemed pertinent. A sufficient number of copies of the message shall be reproduced to furnish a copy to any person desiring one. A copy of the budget in full shall be filed with the city recorder for public inspection and a copy is furnished to each board member.

SECTION 4.03. Capital improvement budget. A capital improvement budget may also be prepared and include a description of projects recommended for the ensuing year. The capital improvement budget is submitted by the mayor (or the city administrator if one is appointed) to the board concurrently with the annual budget. The board may accept, reject or revise the capital improvement budget as it deems desirable.

SECTION 4.04. Public hearing. The city complies with the public hearing requirements found in the Municipal Budget Law.

SECTION 4.05. Action by board on budget - emergencies; amendments; reallocation; monthly report. After the public hearing and before the beginning of the ensuing fiscal year the board adopts an appropriation ordinance, based on the mayor's (or city administrator's if one is appointed) proposed budget with such modifications as the board

considers necessary or desirable. The board shall not make an appropriation in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city declared by a vote of a majority of the members of the board. If conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year become the appropriations for the new fiscal year, subject to amendment as provided in this section. An amendment may be made to the original appropriation ordinance at any time during a current fiscal year. Appropriations, except emergency appropriations as provided above, may be increased during the year only after the city recorder (or city administrator if one is appointed) certifies in writing that a sufficient amount of unappropriated revenue will be available. Funds may be re-appropriated, re-allocated or re-obligated between departments, activities or agencies within a single fund account, i.e.; The General Fund Account, The Utility Fund Account, The Street Aid Fund Account, etc. with the consent of the board which has been duly entered upon the minutes. Transfers of funds between fund accounts, not to exceed the original total appropriations of all funds, may be made by resolution. Any portion of an annual budget remaining and unencumbered at the close of the fiscal year lapses and is subject to appropriation for the following year. At the end of each month the city recorder (or city administrator if one is appointed) shall submit to the board a budget report showing revenue receipts, encumbrances and expenditures for the month and for the fiscal year to the end of that month.

SECTION 4.06. Control of expenditures. The city recorder (or city administrator if one is appointed) is responsible for controlling expenditures of the various agencies of the city government to accomplish maximum efficiency and economy. No expenditures in excess of appropriations shall be made.

SECTION 4.07. Centralized purchasing. The city complies with the requirements of the Municipal Purchasing Law and may increase or decrease bidding threshold requirements by ordinance.

SECTION 4.08. Unauthorized contract or expenditure. Any contract or agreement made in violation of the provisions of this charter or ordinances of the city is void and no expenditure shall be made thereunder. Every officer and employee who knowingly makes or participates in any such contract or agreement, or authorizes or makes any expenditure thereunder and their sureties on their official bonds, and every person who knowingly receives such a payment, is jointly and severally liable to the city for the full amount so paid or received.

SECTION 4.09. Sale of city property. In accordance with Section 2.07(a), by ordinance the mayor (or city administrator if one is appointed) may sell city real estate or other property which is obsolete, surplus, or unusable by the most advantageous manner available, including but not limited to advertisement in a local newspaper requesting sealed bids or directing a public auction.

SECTION 4.10. Annual audit. Within thirty (30) days after the beginning of each fiscal year the board shall employ an independent, certified public accountant to make an audit of all financial records of the city for that year. The auditor shall perform adequate sampling to determine validity of the records. Each such audit includes determination of legality of transactions, mathematical accuracy of records, complete accountability, and application of accepted municipal accounting principles. It is made in accordance with generally accepted auditing standards and in conformity with generally accepted accounting principles and any applicable state and/or federal audit guidelines. After the audit is completed, a report, including a summary for publication, shall be submitted to the board within six (6) months of the end of the fiscal year.

SECTION 4.11. Bonds for public works contracts. Each bid on a contract for any public works or improvement is accompanied by a cash or surety company bid bond in the amount of five percent (5%) of the amount of the bid. Before any contract is awarded, the contractor shall give a bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price. The board may waive these requirements for contracts under five thousand dollars (\$5,000).

SECTION 4.12. Property taxes. The city shall base its property tax assessments on the county's tax rolls.

SECTION 4.13. Omitted property. If county assessments are used, the city recorder shall add to the assessment rolls any taxable property that may have been omitted by the county assessor. Such property is appraised and assessed at the same ratio as other property of the same class located in the city.

SECTION 4.14. Tax levy. The board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation, not later than ninety (90) days prior to the tax due date. In event of the board's failure to do so, the prior year's rate continues in effect.

SECTION 4.15. Tax due dates and tax bills. The due dates of property tax are fixed by ordinance. The city sends one bill to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax, penalty, or interest thereon. Property taxes become delinquent thirty (30) days after a due date, at which time such taxes are subject to interest at the rate of one and one-half percent (1.5%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city have the force and effect of a judgment of a court of record.

SECTION 4.16. Delinquent taxes. The board may provide by ordinance for the collection of delinquent taxes by distress warrants issued

by the mayor for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a magistrate; or, by the county trustee as provided by general law; or, by the city attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes; or, by garnishment; or, by suits in chancery; or, by any two (2) or more of the foregoing methods, or by the use of any other available legal processes and remedies. If not otherwise collected, the city attorney or other attorney designated by the board may file suit for collection of all delinquent taxes not later than eighteen (18) months following the date of delinquency.

SECTION 4.17. Taxes not to be excused. No officer or employee of the city has the authority to excuse taxes, penalties, interest, special assessments, or other charges due the city, but errors may be corrected when authorized by the board.

SECTION 4.18. Purchasing. The city has the authority by ordinance or resolution to adopt policies regarding purchasing and accounting.

ARTICLE V INTERGOVERNMENTAL COOPERATION AND CONTRACTING

SECTION 5.01. Intergovernmental cooperation and contracts. In addition to other powers granted in this charter, the board has power to contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof; or with any duly authorized agency of the federal or state government, for the exercise of any power or function which the city is authorized to undertake by this charter.

SECTION 5.02. Execution of such powers. The board may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any such contract or cooperative action, and any of them may acquire, by gift or purchase, or by power of eminent domain exercised by one or more of the parties, the lands, buildings, and other property necessary or useful for the purpose of the contract or cooperative action, either within or without the corporate limits of one or more of the contracting parties, and has the power to hold or acquire such property jointly. The city may provide for the financing of its share or portion of the cost or expenses of such a contract or cooperative action in the same manner as if it were acting alone and on its own behalf.

Such a contract also may provide for the establishment and selection of a joint commission, officer or officers to supervise, manage, and have charge of joint services or projects and may provide for the powers and duties, terms of office, compensation, if any, and other provisions relating to the members of such joint commission, officer or officers. Such contract may include and specify terms and provisions

relative to the termination or cancellation of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be given of such termination or cancellation. Such cancellation or termination shall not relieve any party participating in such contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such cancellation or termination.

SECTION 5.03. Immunity and liabilities of officers. All public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article enjoy the same immunities and be subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

SECTION 5.04. Handling of funds. All money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided by law, shall be deposited and disbursed in accordance with the provisions of such contract or cooperative action.

ARTICLE VI HOTEL/MOTEL TAX

SECTION 6.01. Purpose. Certain cities within the State of Tennessee are in a unique situation in that they are visited by a large number of tourists each year and yet they have only a relatively small permanent population and that this influx of tourists places a heavy burden upon the local inhabitants to provide public facilities including roads, streets, utilities, meeting places, and other public services out of proportion to the local citizens' needs and at least a portion of these expenses should be borne by the tourists who make use of the needed facilities and services.

SECTION 6.02. Definitions. As used in this article, unless the context otherwise requires:

(a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(b) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designated for occupancy by transients for dwelling, lodging or sleeping purposes, and includes hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(c) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any hotel.

(d) "Transient" means any person who exercises occupancy or is entitled to occupancy for any room, lodgings, or accommodations in a hotel for a period of less than ninety (90) continuous days.

(e) "Consideration" means the consideration charged whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(g) "Tourism" means the planning and conducting or programs of information and publicity designed to attract the municipality tourists, visitors and other interested persons from outside the area also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, convention, and recreational business.

SECTION 6.03. Levy of a Privilege Tax. The City of Jellico is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient up to a maximum rate of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying the room and is to be collected and distributed as provided in this Article.

SECTION 6.04. Tax Collection. The tax shall be added by each operator to each invoice prepared by the operator for the occupancy of a hotel, such invoice to be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the Department of Finance or other appropriate office of the municipality in which the hotel is located.

SECTION 6.05. Tax Remittance. The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the Director of Finance or other appropriate official of the municipality in which the hotel is located, to be remitted to such officer not later than the 20th day of each month next following collection from the transient.

SECTION 6.06. Tax Rebate. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax

or any part thereof will be assumed or absorbed by the operator, or that it will be added to the rent, or that, if added, any part will be refunded.

SECTION 6.07. Delinquent Tax. Taxes collected by an operator which are not remitted to the Department of Finance or other appropriate officer on or before the due dates are delinquent. An operator shall be liable of interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition shall be liable for a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent; provided, however, that the maximum penalty shall not exceed twenty-five percent (25%) of the tax due; provided further, however, that there shall be a minimum penalty in the amount of ten dollars (\$10.00) regardless of the amount due. Such interest and penalty shall become a part of the tax herein required to be remitted. The willful refusal or failure of an operator to collect and to remit the tax hereby imposed or the willful refusal of a transient to pay the tax is a violation of this act and shall be punishable by a civil penalty not to exceed fifty dollars (\$50.00). As against an operator the civil penalty provided herein shall be applicable to each individual transaction involving lodging services paid for by a transient to the operator in cases where the operator willfully refuses or fails to remit the tax payable on such transaction to the Department of Finance or other appropriate office.

SECTION 6.08. Record Retention. It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this Act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the Director of Finance or other appropriate official shall have the right to inspect at all reasonable times.

SECTION 6.09. Adjustments. In administering and enforcing the provisions of this Act, the Director of Finance or other appropriate official shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, Title 67, or otherwise provided by law. Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-2313, it being the intent of this Act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the Director of Finance or other appropriate official shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this Act and to direct the funding of the same. Notice of any tax paid under protest shall be given to the Director of Finance or other appropriate official, and suit for recovery shall be brought against him.

SECTION 6.10. Revenue Distribution. The proceeds from the tax levied herein shall be retained by the municipality and distributed as follows:

(1) One-fourth of the proceeds shall be used for direct promotion of tourism.

(2) Three-fourths of the proceeds shall be deposited in the general funds of the municipality. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel.

SECTION 6.11. Supplemental Tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

ARTICLE VII MISCELLANEOUS PROVISIONS

SECTION 7.01. Other general laws may be used by the city. Notwithstanding any provisions of this charter, the board may elect to operate under or adopt any general law or public act available to municipalities of the state in lieu of, or in addition to, provisions of this charter.

SECTION 2. The provisions relating to the authority of the City of Jellico to levy a hotel motel tax are a codification of prior authority, originally granted in Chapter 40 of the Private Acts of 1981, as amended by Chapter 42 of the Private Acts of 2005. There is no new authority for the hotel motel tax contained in this Act, merely a restatement of authority previously granted.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Jellico. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Jellico and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

PASSED: May 1, 2008


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 14th day of May 2008



PHIL BREDESEN, GOVERNOR